

K.A.R. 28-56-1. Definitions. Each of the following terms shall have the meaning assigned in this regulation:

- (a) "Abortion" has the meaning specified in K.S.A. 65-6701, and amendments thereto.
- (b) "Abortion provider" means a physician that performs an abortion, a clinic comprised of legally or financially affiliated physicians, a hospital, or any other medical care facility where an abortion is performed.
- (c) "Abortion report" means the information required to be submitted by an abortion provider to the department either electronically or on a paper form provided by the department.
- (d) "Clinical estimate of gestation" means the number of completed weeks of gestation of an unborn child as determined through a sonogram.
- (e) "Confidential code number" means a random five-digit identification number, along with subcategory letters, assigned by the department to an abortion provider for the purpose of submitting an abortion report to the department.
- (f) "Correction" means the act of providing information to the department to correct errors or provide missing information to an abortion report.
- (g) "Department" has the meaning specified in K.S.A. 65-6701, and amendments thereto.
- (h) "Electronic abortion reporting system" means the department's vital events reporting system through which abortion reports are submitted electronically to the department.
- (i) "Failed abortion" means an abortion procedure that was initiated but not completed and resulted in a live birth.
- (j) "Failed abortion report" means the information on a failed abortion required to be submitted by the abortion provider to the department on a paper form provided by the

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department.

(k) "Hospital" has the meaning specified in K.S.A. 65-425, and amendments thereto.

(l) "ICD-9-CM" means volumes one and two, office edition, of the 2011 clinical modification of the "international classification of diseases," ninth revision, sixth edition, published by practice management information corporation, which is used to code and classify morbidity data from inpatient and outpatient records, physician offices, and most surveys from the national center for health statistics. This document, including the appendices, is hereby adopted by reference.

(m) "Late term" means the clinical estimate of gestation of at least 22 completed weeks.

(n) "Late term affidavit" means a department-provided form for each abortion that occurs at a clinical estimate of gestation of at least 22 weeks. The referring physician and the physician performing the abortion shall each submit a separate form, which shall be completed, signed, and notarized and shall meet the requirements of K.A.R. 28-56-6.

(o) "Live birth" has the meaning specified in K.S.A. 65-2401, and amendments thereto.

(p) "Medical basis" means the specific medical signs, symptoms, history, or other information provided by the patient or the results of clinical examinations, procedures, or laboratory tests used to make a medical diagnosis.

(q) "Medical care facility" has the meaning specified in K.S.A. 65-425, and amendments thereto.

(r) "Medical diagnosis" means a specific medical condition or disease as determined by a physician.

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(s) "Medical emergency" has the meaning specified in L. 2011, ch. 82, sec. 1, and amendments thereto.

(t) "Partial birth abortion" has the meaning specified in K.S.A. 65-6721, and amendments thereto.

(u) "Physician" has the meaning specified in K.S.A. 65-6701, and amendments thereto.

(v) "Physician's report on number of certifications received" means a monthly report that shall be submitted to the department on a form provided by the department specifying the number of voluntary and informed consent forms certified by each patient and received by the physician before the patient is to receive an abortion.

(w) "Referring physician" means a physician who refers a patient to an abortion provider and who is required to provide a late term affidavit.

(x) "Requirements related to reporting abortions" means the department's handbook containing instructions describing how abortions shall be reported to the department, either on a paper form or electronically, and copies of applicable state statutes and regulations.

(y) "User agreement" means the required document that entitles each abortion provider or the designee to access the department's electronic abortion reporting system.

(z) "Unborn child" means a living individual organism of the species Homo sapiens, in utero, at any stage of gestation from fertilization to birth.

(aa) "Viable" has the meaning specified in K.S.A. 65-6701, and amendments thereto.

(bb) "Voluntary and informed consent form" means the form provided by the department that is signed by the patient authorizing an abortion provider to perform an abortion.

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(Authorized by K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, K.S.A. 65-6701, as amended by L. 2011, ch. 44, sec. 3, and L. 2011, ch. 41, sec. 3; implementing K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, and K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4; effective P-_____.)

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K.A.R. 28-56-2. General requirements for abortion reports. (a) Each abortion provider shall complete and file an abortion report within 15 days of the initiation of each abortion.

(b) Each abortion provider, before performing an abortion and before using the electronic abortion reporting system, shall obtain the following:

(1) A confidential code number from the department; and

(2) a copy of the requirements related to reporting abortions.

(c) Each abortion provider performing less than five abortions annually may use the paper form abortion report.

(d) Each abortion provider performing five or more abortions annually shall use the electronic abortion reporting system to file each abortion report and shall meet the following requirements:

(1) Submit an executed user agreement; and

(2) ensure that each individual authorized by the abortion provider to enter abortion data into the electronic abortion reporting system has a separate user account to access the electronic abortion reporting system.

(e) Each abortion provider shall file an abortion report for each abortion performed. Each abortion report shall include the confidential code numbers of the abortion provider for each abortion performed. The abortion report from a hospital, clinic, or any other medical care facility shall be in addition to the abortion report from the physician who performed the abortion.

(f) Each abortion provider shall file an abortion report containing the following information:

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- (1) The abortion provider's confidential code number;
- (2) the patient's unique identification number as maintained in the abortion provider's medical record. The patient's name and street address shall not be submitted;
- (3) the patient's age in years on the patient's last birthday;
- (4) the patient's marital status at the time of the abortion;
- (5) the month, day, and year the abortion was performed;
- (6) the state or United States territory of residence of the patient or, if the patient is not a resident of the United States, the patient's country of residence;
- (7) the patient's county of residence if the patient is a resident of a state or territory of the United States or, if the patient is a resident of Canada, the province;
- (8) the patient's city or town of residence;
- (9) specification of whether the patient resided within the city limits of the city or town of residence;
- (10) the hispanic origin of the patient, if applicable;
- (11) the patient's ancestry;
- (12) the patient's race;
- (13) the highest level of education completed by the patient;
- (14) the date when the patient's last normal menses began, including the month, day, and year as reported by the patient;
- (15) clinical estimate of gestation;
- (16) number of previous pregnancies, in the following categories:

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(A) Children born live and now living;
(B) children born live and now dead;
(C) previous induced abortions; and
(D) previous spontaneous terminations, including miscarriages, or stillbirths;
(17) the primary abortion procedure used in terminating the pregnancy, including one of the following abortion procedures:

- (A) Suction curettage;
- (B) sharp curettage;
- (C) dilation and evacuation;
- (D) administration of mifepristone;
- (E) administration of methotrexate;
- (F) prostaglandins delivered by intrauterine instillation or other methods;
- (G) hysterotomy;
- (H) hysterectomy;
- (I) digoxin induction;
- (J) partial birth abortion; or
- (K) other procedure, which shall be specified;

(18) if applicable, all secondary abortion procedures used in terminating the pregnancy, including any of the following procedures that apply:

- (A) Suction curettage;
- (B) sharp curettage;

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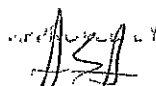
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- (C) dilation and evacuation;
 - (D) administration of mifepristone;
 - (E) administration of methotrexate;
 - (F) prostaglandins delivered by intrauterine instillation or other methods;
 - (G) hysterotomy;
 - (H) hysterectomy;
 - (I) digoxin induction;
 - (J) partial birth abortion; or
 - (K) other procedure, which shall be specified;
- (19) specification of the medical factors and methods used to determine the clinical estimate of gestation; and
- (20) specification of whether there was a report of physical, mental, or emotional abuse or neglect filed pursuant to K.S.A. 38-2223, and amendments thereto. (Authorized by K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, and K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4; implementing K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4; effective P-_____.)

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K.A.R. 28-56-3. Reporting requirements for abortions performed at clinical estimate of gestation of at least 22 weeks. When performing an abortion at clinical estimate of gestation of 22 or more weeks, in addition to the requirements specified in K.A.R. 28-56-2, each abortion report shall contain the following information:

- (a) Specification of whether the unborn child was viable;
- (b) a detailed, case-specific description that includes the medical diagnosis and medical basis of the patient and unborn child if the unborn child was viable;
- (c) specification of whether continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function or the death of the patient;
- (d) a detailed, case-specific description that includes the medical diagnosis and medical basis for the determination that the abortion was necessary to prevent the patient's death or irreversible impairment of a major bodily function; and
- (e) a medical determination that includes all applicable medical diagnosis codes from the ICD-9-CM. (Authorized by K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4 and L. 2011, ch. 41, sec. 3; implementing K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4; effective P-_____.)

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K.A.R. 28-56-4. Reporting requirements for partial birth abortions. For each procedure performed involving a partial birth abortion, in addition to the requirements specified in K.A.R. 28-56-2 and 28-56-3, each abortion report for a partial birth abortion shall contain the following information:

- (a) Specification of whether the unborn child was viable;
- (b) a detailed, case-specific description that includes the medical diagnosis, medical basis, and description of the medical conditions of the patient and unborn child if the unborn child was viable;
- (c) specification of whether continuation of the pregnancy would cause a substantial and irreversible impairment of a major bodily function or the death of the patient;
- (d) a detailed, case-specific medical diagnosis and medical basis for the determination that the abortion was necessary to prevent the patient's death or irreversible impairment of a major bodily function; and
- (e) a medical determination that includes all applicable medical diagnosis codes from the ICD-9-CM. (Authorized by K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4, and K.S.A. 65-6721, as amended by L. 2011, ch. 44, sec. 8; implementing K.S.A. 65-6721, as amended by L. 2011, ch. 44, sec. 8; effective P-_____.)

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K.A.R. 28-56-5. Requirements for reporting failed abortions. If an abortion attempt fails and results in a live birth, each abortion provider shall complete and file the following information:

- (a) A certificate of live birth pursuant to K.S.A. 65-2409a, and amendments thereto; and
- (b) a failed abortion report meeting the following requirements:
 - (1) Meeting the requirements specified in K.A.R. 28-56-2; and
 - (2) specifying the medical basis and medical diagnosis for the reason the abortion was not completed. (Authorized by and implementing K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2; effective P-_____.)

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K.A.R. 28-56-6. Reporting requirements for abortions performed on minors in the case of a medical emergency. (a) Each abortion provider shall file an abortion report as specified in K.A.R. 28-56-2 and, if applicable, K.A.R. 28-56-3.

(b) Each abortion report for an abortion performed on a minor during a medical emergency shall contain the following information:

- (1) If applicable, the information specified in K.A.R. 28-56-4 and K.A.R. 28-56-5;
- (2) the medical basis for determining that a medical emergency exists;
- (3) the medical methods used in determining the medical emergency;
- (4) the patient identification number obtained from the patient's medical records where the abortion was performed; and
- (5) the date on which the abortion was performed. (Authorized by K.S.A. 65-445, as amended by L. 2011, ch. 41 sec. 4 and L. 2011, ch. 44, sec. 2, K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4, K.S.A. 65-6705, as amended by L. 2011, ch. 44, sec. 5, and K.S.A. 65-6721, as amended by L. 2011, ch. 44, sec. 8; implementing K.S.A. 65-6705, as amended by L. 2011, ch. 44, sec. 5; effective P-_____.)

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K.A.R. 28-56-7. Physician's report on number of certifications received. (a) Each physician performing an abortion shall submit to the department the number of patient-completed voluntary and informed consent forms as specified in K.S.A. 65-6709, and amendments thereto. The report shall be submitted within five business days after the end of each month.

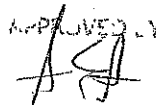
(b) Each physician's report on number of certifications received shall be submitted by United States mail or facsimile transmission. The report shall contain the following information:

- (1) The physician's confidential code number;
- (2) the date the report was submitted; and
- (3) the number of voluntary and informed consent forms as specified in K.S.A. 65-6709, and amendments thereto, received during the previous calendar month, including any voluntary and informed consent form that was not followed by an abortion.

(c) Each correction to the physician's report on the number of certifications received shall be made within 15 business days of discovery of the error or omission. (Authorized by K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, and K.S.A. 2010 Supp. 65-6709, as amended by L. 2011, ch. 44, sec. 6; implementing K.S.A. 2010 Supp. 65-6709, as amended by L. 2011, ch. 44, sec. 6; effective P-_____.)

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K.A.R. 28-56-8. Late term affidavits. (a) The referring physician and the physician performing an abortion shall each submit a late term affidavit to the department within 15 business days of the completion of the abortion procedure.

(b) The late term affidavit completed by the referring physician shall contain the following information:

- (1) Name of the referring physician;
- (2) the patient's identification number obtained from the patient's medical records where the abortion was performed;
- (3) a statement that the referring physician and the physician performing the abortion have no legal or financial affiliation with each other as specified in K.S.A. 65-6703, and amendments thereto; and
- (4) the date the late term affidavit was signed and notarized.

(c) The late term affidavit completed by the physician performing an abortion shall contain the information required in subsection (b). (Authorized by K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, K.S.A 65-6703, as amended by L. 2011, ch. 44, sec. 4, and L. 2011, ch. 41, sec. 3; implementing K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, and K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4; effective P-_____.)

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K.A.R. 28-56-9. Correction in an abortion report. (a) In case of an error or missing information in an abortion report, each abortion provider shall report in writing to the department within 15 business days of discovery the specific information that needs to be corrected or provided.

(b) Each abortion provider shall review all relevant medical records after being advised by the department of an error or missing information on the abortion report and shall provide any correction or updated information on the abortion report within 15 business days of discovery of the error or omission.

(c) An abortion provider shall not make corrections or additions to an abortion report within the electronic abortion reporting system or create a new record to replace the incorrect or incomplete abortion report. (Authorized by and implementing K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2; effective P-_____.)

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K.A.R. 28-56-10. Medical information retained on each abortion performed. (a) Each abortion provider shall retain the following information in each patient's medical record for at least 10 years:

- (1) A copy of the abortion report and any subsequent corrections;
- (2) a copy of the voluntary and informed consent form;
- (3) a copy of the late term affidavit of the physician who performed the abortion;
- (4) a copy of a court-ordered bypass of parental consent as specified in K.S.A. 65-6705, and amendments thereto, or consent of the parent or legal guardian if the minor is not emancipated;

- (5) the physical or mental medical history of the patient;
- (6) all sonogram results;
- (7) a copy of the medical basis and reasons related to partial birth abortion, late term abortion, or emergency abortion procedure on a minor;

- (8) a copy of the patient-specific counseling information provided in addition to state-required material;

- (9) a copy of the postabortion instructions;
- (10) a record and description of any complications;
- (11) the type and amount of anesthesia used;
- (12) any report of physical, mental, or emotional abuse or neglect of a minor pursuant to K.S.A. 38-2223, and amendments thereto;

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- (13) a list of all medical tests performed and the results of each test;
- (14) a record of any return visit by patient, if indicated by the physician;
- (15) emergency contact information for the patient;
- (16) a copy of the medical referral from the referring physician; and
- (17) if known, the name, address, and telephone number of the father of the unborn child if the patient is less than 16 years old.

(b) Each referring physician shall retain a copy of that physician's late term affidavits for at least 10 years. (Authorized by K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4, and L. 2011, ch. 41, sec. 3; implementing K.S.A. 65-445, as amended by L. 2011, ch. 41, sec. 4 and L. 2011, ch. 44, sec. 2, and K.S.A. 65-6703, as amended by L. 2011, ch. 44, sec. 4; effective

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